

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARIO A. VALENZUELA,
Plaintiff,
v.
THORNTONA, et al.,
Defendants.

No. 2:23-cv-02494-DAD-EFB (PC)

FINDINGS AND RECOMMENDATIONS

Plaintiff, a state inmate, proceeds without counsel in an action brought under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

On February 21, 2025, the court screened plaintiff's first amended complaint pursuant to 28 U.S.C. § 1915A. ECF No. 16. The court dismissed the complaint for failure to state a claim and granted plaintiff thirty days in which to file a second amended complaint to cure the deficiencies. *Id.* The screening order warned plaintiff that failure to comply could result in a recommendation that this action be dismissed.

The time for acting has now passed and plaintiff has not filed a second amended complaint or otherwise responded to the court's order. Thus, it appears that plaintiff is unable or unwilling to cure the defects in the complaint.

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1 Accordingly, it is RECOMMENDED that this action be DISMISSED without prejudice
2 for the reasons stated in the February 21, 2025 screening order.

3 These findings and recommendations are submitted to the United States District Judge
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
5 after being served with these findings and recommendations, any party may file written
6 objections with the court and serve a copy on all parties. Such a document should be captioned
7 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
8 objections shall be served and filed within fourteen days after service of the objections. The
9 parties are advised that failure to file objections within the specified time may waive the right to
10 appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*
11 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

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13 Dated: May 19, 2025
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EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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